

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

---

**JORGE LUIS MALDONADO MONTOYA,**

Petitioner,

v.

**LORETTA LYNCH, et al.,**

Respondents.

---

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Civ. No. 16-4674 (JMV)

**MEMORANDUM AND ORDER**

Petitioner, Jorge Luis Maldonado Montoya, is an illegal immigrant currently detained at the Essex County Correctional Facility in Newark, New Jersey. He is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 and has submitted an application to proceed *in forma pauperis*.

The proper sole respondent in this case is Charles Green, who is the warden of the Essex County Correctional Facility. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004). Therefore, petition will be dismissed with prejudice as to respondents Loretta E. Lynch, the U.S.

Department of Homeland Security, John Tsoukaris, and Jeh Johnson.

In his federal habeas petition, Petitioner challenges his current immigration detention, which he alleges has exceeded six months. In accordance with Rule 4 of the Rules Governing Section 2254 Cases, applicable to § 2241 cases through Rule 1(b) of the Rules Governing Section 2254 Cases, this Court has screened the habeas petition for dismissal and determined that dismissal without an answer and the record on this issue is not warranted. In addition to any

arguments that Respondent may make in the answer, Respondent shall specifically address what impact, if any, *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) or *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469 (3d Cir. 2015) has on the habeas petition.

Accordingly, **IT IS** this 4<sup>th</sup> day of August, 2016,

**ORDERED** that Petitioner's application to proceed *in forma pauperis* is GRANTED; and it is further

**ORDERED** the Clerk shall serve a copy of the Petition (ECF No. 1) and this Order upon respondent Charles Green by regular mail, with all costs of service advanced by the United States; and it is further

**ORDERED** that the Clerk shall forward a copy of the Petition (ECF No. 1) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

**ORDERED** that within forty-five (45) days of the date of the entry of this Order, Respondent shall file and serve an answer which responds to the allegations and grounds in the Petition and which includes all affirmative defenses respondent seeks to invoke; and it is further

**ORDERED** that, in addition to any other arguments Respondent may make, the answer shall state the statutory authority for Petitioner's detention, *see* 28 U.S.C. § 2243, and shall also address the applicability, if any, of the holdings in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) or *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469 (3d Cir. 2015) to the facts of this case, being mindful that Petitioner does not appear to be detained under 8 U.S.C. § 1226(c); and it is further

**ORDERED** that Respondent shall file and serve with the answer certified copies of all documents necessary to resolve Petitioner's claim(s) and affirmative defenses; and it is further

**ORDERED** that within thirty (30) days of receipt of the answer, Petitioner may file a reply to the answer; and it is further

**ORDERED** that within seven (7) days of Petitioner's release, by parole or otherwise, Respondent shall electronically file a written notice of the same with the Clerk; and it is further

**ORDERED** that the Clerk of the Court shall serve a copy of this Order upon Petitioner by regular U.S. mail.

s/ John Michael Vazquez  
JOHN MICHAEL VAZQUEZ  
United States District Judge